IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24592 of 2004

Between:

S. Nagaraju, S/o. Subrahmanyam,
R/o. Opp. Civil Supplies Rice Godown, Beside S.R.A. Talkies, Potti Sriramulupet, Narsingaraopet, Gudur Town and Mandal, Nellore District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep by its Secretary, Department of Tribal Welfare, Secretariat, Hyderabad.
2 The Collector and District Magsitrate, Nellore, Nellore Dsitrict.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction declaring inaction of the 1st respondent in not granting stay of all further proceedings including order of the 2nd respondent in Rc.C5.(M) 3856/2002, dated 23-11-2004, pending appeal filed under Section 7 of the A.P. (S.C. S.T. and B.C.s) Regulation of Issue of Community Certificates Act, 1993 as arbitrary, non-exercise of power and contrary to Rule 11(2) of the A.P. (SC, ST and BCs) Regulation of issue of Community Certificates Rules, 1997 apart from violative of the Fundamental Right guaranteed under Article 19 of the constitution of India and consequently suspend the order of the 2nd respondent in Rc.C5. (M)3856/2002, dated 23-11-2004.

Counsel for the Petitioner: MR.C.V.R.RUDRA PRASAD

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court at the admission stage, made the following :

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ORAL ORDER:

The petitioner has filed this writ petition seeking a Mandamus to declare the action of the 1st respondent in not granting stay of Proceedings Rc.C5(M)3856/2002, dated 23.11.2004 issued by the 2nd respondent cancelling the community certificate of the petitioner as illegal, arbitrary and contrary to the Rule 11(2) of the A.P. (S.C., S.T. and B.Cs.) Regulation of Issue of Community Certificate, Rules, 1997.

The learned counsel for the petitioner has contended that in spite of filing of an appeal and an application for grant of stay, the 1st respondent has not passed any orders, and therefore, a direction may be given to the 1st respondent to pass appropriate orders on the application for grant of stay.

On the other hand, the learned Government pleader for Social Welfare has opposed the same on the ground that the proceedings of the 2nd respondent cannot be stayed. The cancellation of the caste certificate by the 2nd respondent-District Collector is the subject matter to be decided by the 1st respondent in the statutory appeal filed by petitioner. Therefore, the 1st respondent has to take appropriate decision whether to grant stay of the proceedings of the 2nd respondent or not.

Admittedly, the petitioner filed an appeal under Section 7 of the A.P.

(S.C., S.T. and B.Cs.) Regulation of Issue of Community Certificates Act, 1993 before the 1st respondent along with interlocutory application for grant of stay of further proceedings including the Proceedings, dated 23.11.2004, but no orders have been passed. The petitioner's apprehension is that criminal prosecution may be launched against him in pursuance of the cancellation of the caste certificate. Therefore, the counsel for the petitioner prays to grant stay of criminal proceedings till the disposal of the appeal by the 1st respondent.

Having regard to the facts and circumstances of the case I deem it appropriate to direct the 1st respondent to pass appropriate order on the appeal filed by the petitioner within a period of two months from the date of receipt of a copy of this order. Till then, there shall be stay of criminal prosecution against the petitioner.

The writ petition is disposed of in terms of the above direction. There shall be no order as to costs.

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(K.C. BHANU, J.)

29th December, 2004.

bcj

To

1 The Secretary, The Government of Andhra Pradesh, Department of Tribal Welfare, Secretariat, Hyderabad.
2 The Collector and District Magsitrate, Nellore, Nellore Dsitrict.

3 Two C.Cs. to the Government Pleader for Social Welfare, High Court Buildings, Hyderabad (OUT)

4. Two C.D. copies